



Our Ref: SUS/PLAN/NORFOLKCC/L001

19th December 2022

Norfolk County Council
Planning Services (Minerals and Waste Policy)
Community and Environmental Services
County Hall
Martineau Lane
Norwich
NR1 2DH

BY EMAIL ONLY

Dear Sir/Madam,

Representation to the Minerals and Waste Local Plan Pre-submission Document Consultation

Sibelco is a global material solutions company. The company operates numerous quarries across the UK, principally extracting silica sand, ball clay and china clay. Sibelco has a long history of operations within Norfolk. The company currently operates the King's Lynn Quarry complex which extracts, processes and sells silica sand products. The site is one of the only producers of silica sand suitable for colourless glass manufacture in the UK. The operation of the site is critical to the viability of an industry worth in excess of £1 billion to the UK's economy.

This letter has been prepared in response to the Minerals and Waste Plan Pre-submission Document and consider its legal compliance. It is structured as follows:

1. Part A – Personal Details
2. Part B – Representation

Part A

Title	Mr
First Name	Lewis
Last Name	Williams
Job Title	Planning and Estates Manager
Organisation	Sibelco
Address	Brookside Hall Congleton Road Sandbach Cheshire CW11 4TF
Telephone Number	
Email Address	lewis.williams@sibelco.com
Preferred Method of Contact	Email
Category of Respondent	Minerals Industry

Part B

Policy MP1: Provision for minerals extraction

1. Policy MP1 is not legally compliant or sound.
2. Paragraph 214 of the National Planning Policy Framework (NPPF) states:

“Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:...

- c. maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment⁷⁴.”*

3. Footnote 74 states:

“These reserves should be at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required; and at least 25 years for brick clay, and for cement primary and secondary materials to support a new kiln.”

4. National policy is clear that Mineral Planning Authorities are required to plan for a steady and adequate supply of silica sand, it is therefore wholly inappropriate for Policy MP1 to state that a landbank of at least 10 years shall be maintained “*where practical*”. It is notable that where significant new capital is required a landbank of at least 15 years is required rather than just 10 years. This means that the policy as drafted is not prepared positively and is not consistent with national policy.
5. It follows that the calculation of forecasted need is not consistent with national policy. Whilst there is no guidance on how this should be calculated for the purposes of plan making, Paragraph: 090 Reference ID: 27-090-20140306 of Planning Practice Guidance (PPG) provides guidance for how this should be calculated at the point of planning application submission:

*“The required stock of permitted reserves for each silica sand site should be based on the average of the **previous 10 years sales**. The calculations should have regard to the quality of sand and the use to which the material is put.”*

6. No reference is made to the permitted throughput of a processing site. Indeed the ‘throughput’ of a particular site does not determine the sales made from the site. National policy makes the clear distinction that sales should be used to determine the level of permitted reserves required as the processing of raw mineral results in waste unsuitable for sale.
7. The average 10 year sales (2012 to 2021) for the King’s Lynn Quarry complex is 807,548 tonnes per annum. Therefore the forecasted need over the Plan period is at least 14,535,864 tonnes.

8. Taking into consideration permitted silica sand reserves (3,232,000 tonnes) this indicates a **shortfall of 11,303,864 million tonnes**.
9. We suggest Policy MP1 should be reworded as follows:

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

*“For silica sand, sufficient sites to deliver at least ~~40.34~~ **11.30** million tonnes of silica sand resources will be required during the Plan period. The landbank for silica sand will be maintained at a level of at least 10 years’ supply **or at least 15 years’ supply where significant new capital is required** ~~where practicable~~. Planning applications for silica sand extraction located outside of allocated sites, which would address the shortfall in permitted reserves, will be determined on their own merits in accordance with the policies in this Local Plan, including the requirements contained within Policy **MP2 and MPSS1**.”*

Policy MP2: Spatial Strategy for minerals extraction

10. Policy MP2 is not legally compliant or sound.
11. Paragraph 209 of the NPPF states:

“It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.”

12. It is notable that Policy MP2 dictates that specific sites for silica sand, *“should be located where they are able to access the existing processing plant and railhead at Leziate via conveyor, pipeline or off-public highway haul route.”* There is no basis or justification for imposing this restriction as a new mineral site could be a significant distance from the Leziate Plant Site which might mean that the only viable or the most sustainable option to provide a steady and adequate supply of silica sand is to build a new processing plant or warehousing facility. This policy is clearly not an effective approach to meet unmet need and is not consistent with the principles of national policy which set out that minerals can only be worked where they are found.
13. Furthermore, there is very little basis for the remainder of the spatial strategy, which simply sets out where mineral extraction sites are not acceptable. This ignores that silica sand is a nationally important mineral and that the extraction of this mineral in areas specified within the policy has been found to be acceptable. This very clearly cannot be termed a spatial strategy for silica sand extraction and as drafted is not justified, consistent with national planning policy, effective or positively prepared. It is simply unsound.
14. Paragraph 23 of the NPPF states:

“Broad locations for development should be indicated on a key diagram, and landuse designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively

assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or nonstrategic policies)."

15. Paragraph 210 of the NPPF states:

"Planning policies should:

- a) provide for the extraction of mineral resources of local and national importance, but not identify new sites or extensions to existing sites for peat extraction;...*

16. It follows that the reasoning for removing Areas of Search from the plan is unequivocally flawed. Especially as the site selection criteria used differs from that set out in the policy and effectively implies that the whole of the resource area is an unacceptable location for minerals development. This undermines the strategic and national importance of silica sand whilst also prejudging specific applications which may evidence that a particular location is suitable for mineral extraction.

17. Fundamentally it does not meet the requirement of Paragraph 210 of the NPPF which states that planning policies should provide for the extraction of mineral resources. Indeed, Paragraph 23 of the NPPF is clear that strategic policies should provide a clear strategy for bringing forward sufficient land to address objectively assessed need. This policy does not do this, but rather attempts to set out a principle that silica sand resources are not located in areas acceptable for extraction. This means that the policy is not positively prepared, justified, effective or consistent with national policy. It is important to note that Norfolk is one of the only areas in England processing sand capable of colourless glass manufacture. This damaging rhetoric and reckless approach to policy making threatens the viability of the nation's glass industry, using a set of baseless principles that would be liable to legal challenge.

18. The policy as drafted should be re-evaluated in light of the above-mentioned policies and PPG. Paragraph: 008 Reference ID: 27-008-20140306 of the PPG states:

"Mineral planning authorities should plan for the steady and adequate supply of minerals in one or more of the following ways (in order of priority):

- 1. Designating Specific Sites – where viable resources are known to exist, landowners are supportive of minerals development and the proposal is likely to be acceptable in planning terms. Such sites may also include essential operations associated with mineral extraction;*
- 2. Designating Preferred Areas, which are areas of known resources where planning permission might reasonably be anticipated. Such areas may also include essential operations associated with mineral extraction; and/or*
- 3. Designating Areas of Search – areas where knowledge of mineral resources may be less certain but within which planning permission may be granted, particularly if there is a potential shortfall in supply.*

National Park Authorities are not expected to designate Preferred Areas or Areas of Search given their overarching responsibilities for managing National Parks.

Furthermore, in exceptional circumstances, such as where a local authority area is largely made up of designated areas such as Areas of Outstanding Natural Beauty, it may be appropriate for mineral planning authorities to rely largely on policies which set out the general conditions against which applications will be assessed.

In planning for minerals extraction, mineral planning authorities are expected to co-operate with other authorities.”

19. The Specific Sites proposed for allocation cover a very small proportion of the overall forecasted need for silica sand. Sibelco strongly disagree with the Council’s assertion in paragraph 13.4 of the Silica Sand Topic Paper that, *“there are exceptional circumstances in Norfolk to rely largely on a criteria-based policy.”* Norfolk is not made up largely of designated areas such as Areas of Outstanding Natural Beauty. There are a number of areas where silica sand extraction could come forward in both non-designated and designated areas. Nationally important mineral is routinely extracted within Areas of Outstanding Natural Beauty and other designated sites such as Ramsar and SSSI’s where effective mitigation measures can control development. The following evidence should also be considered in the Council’s policy making:

- In his examination of the Norfolk County Council Minerals Site Specific Allocations DPD in 2017¹ the Inspector found that in order to address a shortfall of 0.68 million tonnes of silica sand, it was appropriate to designate some 946 hectares of Area of Search. On this matter the Inspector concludes, *“I am mindful that the Plan has identified 946 hectares of land within the AoS, which I consider provides a suitable level of provision, given the uncertainties involved and the need for some flexibility should the future need for silica sand increase. Overall, I consider that the site selection methodology is sound.”*
- In his examination of the Norfolk County Council Minerals Site Specific Allocations DPD in 2017² the Inspector found the site selection methodology sound. The current site selection methodology appears to be the same. It is therefore difficult to understand why the Sustainability Appraisal excludes all of the proposed Areas of Search, especially as these areas were deemed acceptable for inclusion and proposed allocation within the Norfolk Minerals and Waste Local Plan Review Preferred Options. The following observations are made on the summary text in Section 6.3.4 of the Sustainability Appraisal which indicate the reasons why the proposed Areas of Search have been excluded from the Minerals and Waste Plan Pre-submission Document.:

AOS E:

- The impacts on the setting of heritage assets at Wormegay and on the setting of Pentney Priory was a material consideration for the Inspector when he found the inclusion of this AOS as sound. The AOS was included in the Preferred Options stage with basic heritage assessment evidence informing the designation. Using Heritage as a constraint is not a justifiable reason to remove the AOS given nothing has changed in the evidence base since the AOS designation was considered sound.

¹ Report on the Examination of the Norfolk Minerals Site Specific Allocations DPD: Single Issue Silica Sand Review (Jonathan Manning BA (Hons) MA MRTPI, 2017)

² Report on the Examination of the Norfolk Minerals Site Specific Allocations DPD: Single Issue Silica Sand Review (Jonathan Manning BA (Hons) MA MRTPI, 2017)

- The statutory safeguarding area around RAF Marham was a material consideration for the Inspector when he found the inclusion of this AOS as sound. The Ministry of Defence raised concerns about minerals development in response to the Minerals and Waste Local Plan Initial Consultation but did not object. The Council's response was to amend Policy MP13 to require a Bird Hazard Management Assessment at planning application stage. The Ministry of Defence provided the same comments in response to the Norfolk Minerals and Waste Local Plan Review Preferred Options Consultation and did not object to the inclusion of the AOS. Bird strike is not a justifiable reason to remove the AOS. It would be for an individual application and working scheme to mitigate any impacts within the context of these policies.
- The loss of access to public open space was a material consideration for the Inspector when he found the inclusion of this AOS as sound. Mineral extraction is a temporary and progressive operation and there is no reason why public open space cannot be either be maintained or returned upon restoration.

AOS F, AOS I and AOS J:

- The statutory safeguarding area around RAF Marham was a material consideration for the Inspector when he found the inclusion of this AOS as sound. The Ministry of Defence raised concerns about minerals development in response to the Minerals and Waste Local Plan Initial Consultation but did not object. The Council's response was to amend Policy MP13 to require a Bird Hazard Management Assessment at planning application stage. The Ministry of Defence provided the same comments in response to the Norfolk Minerals and Waste Local Plan Review Preferred Options Consultation and did not object to the inclusion of the AOS. Bird strike is not a justifiable reason to remove the AOS.
- The Inspector found the size of this AOS as acceptable and it is therefore not just able to remove on this basis.

20. It is also noted that a number of superfluous reasons with little planning basis have been used to reject the Areas of Search approach. For instance, landowner willingness is not required by PPG for Preferred Areas or Areas of Search. In addition, in relation to designations such as AONB's, SPA's and SAC, mineral extraction has been found to be acceptable both within and in close proximity to these designations.
21. In summary there are no sound planning reasons to deviate from the Areas of Search approach. Omitting Areas of Search and introducing a criteria-based approach renders the Plan not positively prepared, justified, effective or consistent with national policy. The Plan is unsound.
22. We suggest Policy MP2 is re-worded to include Areas of Search and also set out a hierarchy of delivery. to properly set out a spatial strategy for silica sand development.

Proposed Changes (deletions in strikethrough; new text in **bold**)

~~Within the resource area identified on the key diagram, specific sites for silica sand should be located where they are able to access the existing processing plant and railhead at Leziate via conveyor, pipeline or off-public highway haul route.~~

~~This spatial strategy for mineral extraction sites is subject to the proposed development not being located within:~~

- ~~• the Broads Authority Executive Area or the Norfolk Coast Area of Outstanding Natural Beauty, other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest, or~~
- ~~• a Site of Special Scientific Interest or a habitats site and which is likely to have an adverse effect on it, or~~
- ~~• ancient woodland, or~~
- ~~• a designated heritage asset, including listed buildings, registered parks and gardens, and scheduled monuments, or their settings if the proposed development would cause substantial harm to or the loss of the heritage asset~~

To be replaced with:

“To help meet the at least 14.54 million tonne silica sand requirement for the Plan period as identified in in Policy MP1, the following hierarchy of resource delivery will apply:

- 1. first priority: the delivery of specific sites MIN 40 and SIL01 over other proposals; then**
- 2. second priority: the delivery of an Preferred Area; then**
- 3. third priority: an unidentified extension of an existing quarry located within an Area of Search; then**
- 4. fourth priority: an extension to an existing quarry outside an Area of Search or a new quarry located within an Area of Search; then**
- 5. fifth priority: a new quarry outside of an Area of Search.”**

23. We suggest that, based on the revised policy wording above, the following sites are allocated to help meet the identified need.:

Specific Site

- Grandcourt Quarry Extension – Charity Fields

Preferred Area

- South of A47

Areas of Search

- Roydon
- Ashwicken
- Shouldham (Effectively AOS E with additional land immediately adjacent of the River Nar)
- Sandringham

24. Sibelco submit the separate document 'Proposed Silica Sand Allocations Norfolk County Council Minerals and Waste Local Plan Publication Document Consultation Supplementary Information Report' which provides an assessment of the above areas justifying their inclusion in the Plan.

Policy MPSS1: Silica sand extraction sites

25. Policy MPSS1 is not legally compliant or sound.
26. The supporting text to MPSS1 makes a number of assumptions without evidence and quite fatally disregards the fact that minerals can only be worked where they are found. In particular, the policy is dismissive in relation to silica sand being a mineral of national importance. It follows that there will be a number of potential sites either within or in close proximity to designated areas that may be acceptable for mineral extraction upon balance. However, the Council's approach is to blanket dismiss areas and hide behind designations is a flawed understanding of what they are intended for.
27. We suggest that a hierarchy of delivery to properly set out a spatial strategy for silica sand development is included to properly plan for the forecasted need for silica sand. This will help to ensure development of mineral resources to directed to more acceptable locations. It is consider that the criteria -based approach could in fact have the opposite approach given the incoherence of the silica sand policies both in approach and wording.
28. We suggest Policy MPSS1 should be reworded as follows:

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

*"Planning applications for silica sand extraction located outside of allocated sites **will only be permitted where it can be demonstrated that greater priority schemes, as outlined in Policy MS2, are either unavailable or not viable to meet future silica sand needs. Otherwise planning applications which would** address the shortfall in permitted reserves, will be subject to compliance with the Minerals and Waste Local Plan policies and all the following requirements:*

- a. To address the shortfall in silica sand supply to meet the requirements of the existing ~~processing plant site~~ **site** (as set out in the NPPF);*
- b. Submission of an acceptable noise assessment, an acceptable air quality/dust assessment and a programme of mitigation measures (e.g. standoff areas, screening and/or bunding, operational practices) to deal appropriately with any potential impacts;*
- c. Submission of an acceptable Landscape and Visual Impact Assessment to identify potential landscape impacts, together with suitable mitigation measures to address the impacts and manage change in ways that will best sustain heritage values. The LVIA will include Core River Valleys, the Norfolk Coast Area of Outstanding Natural Beauty, Scheduled Monuments, Listed Buildings, Registered Parks and Gardens, Conservation Areas, non-designated heritage assets of archaeological interest and their settings where appropriate;*
- d. Submission of an acceptable Heritage Statement to identify heritage assets and their settings, assess the potential for impacts and identify appropriate mitigation to sustain*

- heritage values if required. As a result of the historically complex and significant environment in which the mineral resource is present, applicants should consider the potential for early engagement with Historic England, the Norfolk Historic Environment Service and Conservation Officers in the preparation of the Heritage Statement;*
- e. *An appropriate archaeological assessment must be prepared in consultation with Norfolk County Council; this may initially be desk-based but may need to be followed up with field surveys and trial-trenching. The archaeological assessment will be used by Norfolk County Council/Historic Environment Service to agree appropriate mitigation measures;*
- f. *Submission of an acceptable Hydrogeological Impact Assessment; based on proportionate evidence,*
- *to identify potential impacts to groundwater quality, quantity and levels; and*
 - *to propose appropriate mitigation to protect any abstraction points, ecosystems and surface water features that are reliant on groundwater, in particular SSSIs, SACs and SPAs. The assessment will need to consider the precautionary principle as it relates to European designations. The assessment should include a programme of mitigation measures to address identified potential impacts;*
 - *Submission of an acceptable Biodiversity Survey and Report, including a protected species assessment. If protected species are found on the proposed extraction site, then appropriate mitigation will be required;*
 - *Submission of an acceptable assessment of the potential for impacts on Water Framework Directive waterbodies, including from silt ingress and modification, and appropriate mitigation to prevent unacceptable adverse impacts;*
 - *A sufficient stand-off distance around any water main that crosses the site or diversion of the water main at the developers' costs and to the satisfaction of Anglian Water;*
 - *Submission of an acceptable Arboricultural Impact Assessment to identify the impact of the development on existing trees and identify appropriate mitigation measures if required;*
 - *Submission of a suitable scheme for the temporary diversion and reinstatement of any Public Rights of Way located within the site;*
 - *Submission of a detailed agricultural land survey to identify subgrades, if the application area contains Grade 3 agricultural land. Land identified as being within the Best and Most Versatile classification (grades 1, 2, 3a) will require a working scheme which incorporates a soil management and handling strategy which is compliant with Policy MW5;*
 - *The existing processing plant should be accessed via conveyor, pipeline or off-public highway routes. However, if silica sand is proposed to be transported to the processing plant using the public highway then there will be a preference for a transport route which minimises amenity impacts through the use of off-highway haul routes from the B1145 to the processing plant. A right-turn lane at the junction with the B1145 would probably be required to provide a suitable junction;*
 - *Submission of an acceptable Transport Assessment or Statement which considers the potential for transport impacts and identifies appropriate mitigation measures, including highway improvements where appropriate, to address these impacts;*

- *Submission of a comprehensive phased working and restoration scheme, incorporating opportunities on restoration for ecological enhancement and biodiversity net gains, the improvement of public access and geological exposures for future study;*
- *Submission of an acceptable Bird Hazard Assessment report if the site is located within a statutory birdstrike safeguarding consultation zone. The Bird Hazard Assessment report will identify the risk of bird hazard to the safe operation of aerodromes and aircraft, identify proposed mitigation of any identified risk, and include a Bird Hazard Management Plan if necessary; and*
- *Submission of an acceptable site specific Flood Risk Assessment and sequential test demonstrating that the development is located in an area of the silica sand resource with the lowest risk of flooding from any source.*

Policy MP11 Mineral Safeguarding Areas and Mineral Consultation Areas

29. We support the inclusion of a mineral safeguarding and mineral consultation policy but believe the policy wording should be amended as set out below. The changes set out below are suggested to ensure adequate protection of mineral resources in accordance with paragraph 210 of the NPPF. In particular, the additional text reflects the national and strategic importance of Norfolk's silica sand resource with particular reference to colourless glass production. This would allow the Council to consult with mineral operators to seek their technical industrial knowledge of minerals to best ensure effective safeguarding. This is an approach taken by Devon County Council in response to the existence of nationally important ball clay resources.

Proposed Changes (deletions in strikethrough; new text in **bold**)

*"The County Council will safeguard existing, permitted and allocated mineral extraction sites from inappropriate development proposals. Mineral Consultation Areas are delineated on the Policies Map and extend to 250 metres from each safeguarded site. Development proposals within 250 metres of a safeguarded site should demonstrate that they would not prevent or prejudice the use of the safeguarded site for mineral extraction and the 'agent of change' principle will be applied in all such cases. **In consultation with mineral operators,** ~~the County Council will object to development proposals which would prevent or prejudice the use of safeguarded sites for mineral extraction.~~*

The County Council will safeguard Norfolk's silica sand, carstone, and sand and gravel mineral resources, within the Mineral Safeguarding Areas identified on the Policies Map, from inappropriate development proposals. For mineral resources the Mineral Consultation Area is the same defined area as the Mineral Safeguarding Area.

The Mineral Planning Authority should be consulted on all development proposals within Mineral Consultation Areas, except for the excluded development types set out in Appendix 4.

For relevant development proposals located within a Mineral Safeguarding Area the Mineral Planning Authority will expect to see appropriate investigations carried out to assess whether any mineral resource there is of economic value, and if so, whether the mineral could be economically extracted prior to the development taking place. This information should be provided through the submission of a Mineral Resource Assessment, as set out in Appendix 10.

The conservation benefits of carstone will be a consideration in safeguarding resources.

*In line with the NPPF, the Mineral Planning Authority, **in consultation with mineral operators**, will object to development which would lead to the sterilisation of the mineral resource., ~~and it would be for the relevant Local Planning Authority to decide whether there are compelling planning reasons for over-riding this safeguarding objection.~~"*

30. It is considered that the delineation of the Mineral Safeguarding Area and subsequently the Minerals Consultation Area should be amended on the Policies Map as silica sand resources known to Sibelco occur outside of the area proposed to be safeguarded for silica sand. This is reflected by the extent and location of sites contained within the 'Proposed Silica Sand Allocations Norfolk County Council Minerals and Waste Local Plan Publication Document Consultation Supplementary Information Report'. The supporting geological information supports this conclusion.
31. On this basis it is considered that the following geological areas in the British Geological Survey (BGS) Geology 50K (DigMapGB-50) mapping should be safeguarded for silica sand:
- Leziate Member,
 - Mintlyn Member and
 - Carstone Formation.
32. Advice produced by the BGS³ and reference in PPG Paragraph: 003 Reference ID: 27-003-20140306 states that where available other data should be incorporated into the process of defining mineral safeguarding areas. This other data is set out in paragraph 4.1.4 of the BGS advice documents and includes, *"exploration data from industry that is not held by BGS, such as shallow borehole information and trial pit investigations."* It is on this basis the safeguarding area for silica sand should be extended to incorporate the above mentioned geological areas.
33. Sibelco would like to be present at any Examination in Public.

Yours faithfully,

Lewis Williams
Planning and Estates Manager
Email Lewis.Williams@sibelco.com

Encs. Proposed Silica Sand Allocations – Norfolk County Council Minerals and Waste Local Plan Publication Document Consultation Supplementary Information Report (Sibelco,2022)

³ Mineral safeguarding in England : good practice advice (British Geological Survey, 2011)